

Case No. 1:12-CV-688
Gwin, J.

promissory notes and mortgages to the two properties the Court has ordered be sold.^{5/}

The United States opposes the motion.^{6/}

The Court **DENIES** Defendant RBS Citizens's motion.

This Court entered final judgment on April 17, 2013.^{7/} Because the Court must reopen the case in order to grant leave to file an amended answer and crossclaim, Defendant's motion must satisfy the requirements of Civil Rules 59 or 60.^{8/} Here, the motion is untimely under [Rule 59\(e\)](#), and the Court finds that relief under [Rule 60\(b\)](#) is unwarranted.

Only two of the [Rule 60\(b\)](#) grounds are possibly applicable in this case: mistake, inadvertence, surprise, or excusable neglect and the catch-all provision.^{9/} The Court does not find that these grounds require reopening the case.

First, Mr. Fortune has died. He is not capable of defending a reopened case. No representative of his estate has been appointed. As soon as a representative is appointed, the government has said it will proceed with the sale of the properties.^{10/}

Second, the final judgment in this case adequately protects RBS Citizens's interests in the properties. RBS Citizens will receive the proceeds from the sale according to its lien priority.^{11/}

^{5/}Doc. [58-2](#).

^{6/}Doc. [59](#).

^{7/}Doc. [53](#).

^{8/}See [C & L Ward Bros., Co. V. Outsource Solutions, Inc.](#), No. 13-1435, 2013 WL 6247356, at *2 (6th Cir. Dec. 3, 2013).

^{9/}[Fed. R. Civ. P. 60\(b\)\(1\) & \(6\)](#).

^{10/}Doc. [59](#) at 6.

^{11/}See Doc. [53](#) at 5 ¶15, 6-7 ¶18.

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Therefore, no reason exists to justify reopening this case.

IT IS SO ORDERED

Dated: April 7, 2014

s/ *James S. Gwin*
JAMES S. GWIN
UNITED STATES DISTRICT JUDGE